

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:       Lawrence H. Yancey                             )  
                Ward 013, Block 052, Parcel 00006       ) Shelby County  
                Residential Property                      )  
                Tax Year 2005                             )

## INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$5,500           | \$28,400                 | \$33,900           | \$13,560          |

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 7, 2006 in Memphis, Tennessee. In attendance at the hearing were Dr. Yancey, the appellant, and Shelby County Property Assessor's representative Jonathan Jackson.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a .19 acre lot improved with two duplexes located at 325 Simpson in Memphis, Tennessee.

The taxpayer contended that subject property should be valued at \$20,000. In support of this position, the taxpayer argued that subject property experiences a loss in value due to the poor physical condition of the improvements and surrounding properties. In addition, the taxpayer maintained that it would take a significant expenditure to rehabilitate the property.

The assessor contended that subject property should be valued at \$33,900. In support of this position, a spreadsheet summarizing five (5) comparable sales was introduced into evidence. Mr. Jackson asserted that the condition of the subject and surrounding properties has been accounted for by appraising subject property at a much lower value than the comparable sales would otherwise indicate.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$33,900 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization

Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . . was too high. In support of that position, she claimed that. . . the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

The administrative judge finds that the taxpayer clearly established the poor condition of both the subject and surrounding properties. However, the administrative judge finds that no affirmative proof was introduced to substantiate any particular value. Absent additional evidence such as comparable sales, the administrative judge must presume the assessor has adequately accounted for those factors that unquestionably cause a diminution in value.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

| <u>LAND VALUE</u> | <u>IMPROVEMENT VALUE</u> | <u>TOTAL VALUE</u> | <u>ASSESSMENT</u> |
|-------------------|--------------------------|--------------------|-------------------|
| \$5,500           | \$28,400                 | \$33,900           | \$13,560          |


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 14th day of June, 2006.

  
 MARK J. MINSKY  
 ADMINISTRATIVE JUDGE  
 TENNESSEE DEPARTMENT OF STATE  
 ADMINISTRATIVE PROCEDURES DIVISION

c: Dr. Lawrence H. Yancey  
 Tameaka Stanton-Riley, Appeals Manager